



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
OFFICE OF THE INSPECTOR GENERAL
OFFICE OF INVESTIGATIONS
1301 CONSTITUTION AVENUE, NW
WASHINGTON, DC 20004**

SUMMARY REPORT

**GOLD KING MINE INCIDENT (ANIMAS RIVER)
OI-HQ-2015-CFR-0108**

**OFFICE OF INSPECTOR GENERAL
OFFICE OF INVESTIGATIONS**

CASE NO.: OI-HQ-2015-CFR-0108

DATE OPENED: August 13, 2015

CASE TITLE: GOLD KING MINE INCIDENT
(ANIMAS RIVER)

CASE AGENT: [REDACTED]

CASE CATEGORY: Employee Integrity

OFFICE: San Francisco Field Office
Denver, Colorado

JOINT AGENCIES: None

JURISDICTION: District of
Colorado

Introduction

The United States Environmental Protection Agency (EPA) Office of Inspector General (OIG) Office of Investigations (OI) conducted an investigation related to the August 5, 2015 release of mine water at the Gold King Mine (GKM) in response to the following:

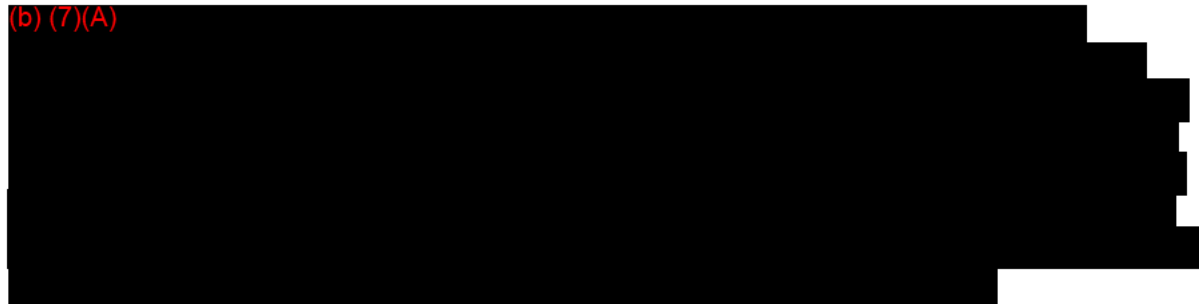
1. (b) (7)(A) [REDACTED]
2. (b) (7)(A) [REDACTED]

3. In a September 18, 2015, letter to the OIG, Mark Brnovich, Attorney General (AG) for the state of Arizona, requested the EPA OIG to review the timeliness and methods of notification made to affected downstream stakeholders of the GKM following the release.

Upon receipt of the letters referenced above, the EPA OIG OI conducted an investigation and produced three Reports of Investigation (ROI). This document is a summary designed to give an overview of the OI investigative efforts related to the GKM; it does not contain details of the specific allegations investigated.

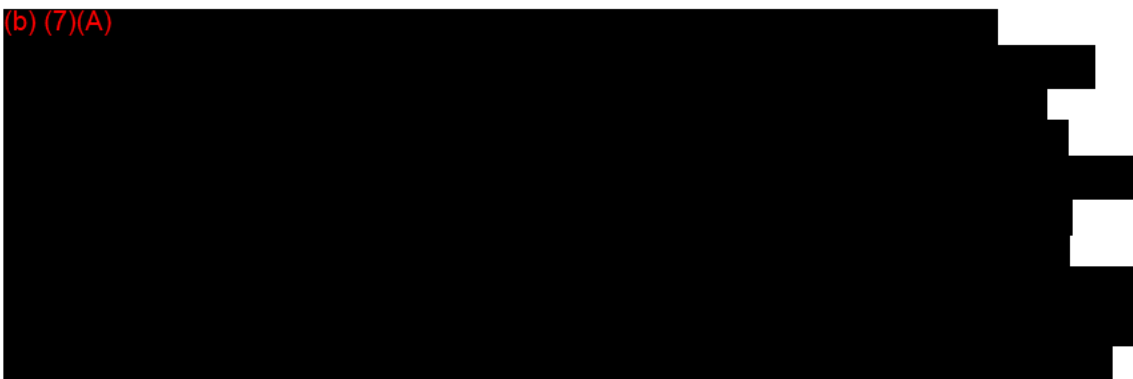
Background

(b) (7)(A)



Synopsis

The three ROIs, reporting specific allegations and investigative results, are as follows:

1. (b) (7)(A)
- 

(b) (7)(A)

2. (b) (7)(A)

3. As a result of the letter dated September 18, 2015, from the Arizona AG, OI conducted an investigation to determine whether there was a delay in reporting the mine water release from the GKM to affected downstream stakeholders a potential violation of 42 U.S.C. § 9603(a) (Notification Requirements Respecting Released Substances). OI uncovered no evidence that any of the EPA employees involved in the reporting of the mine water release from the GKM to affected downstream stakeholders engaged in misconduct regarding said reporting; rather, OI found that the reporting was done in accordance with proper spill notification procedures. This ROI is being submitted to EPA senior management for informational purposes only.

(b) (7)(A)

(b) (7)(A)

During the course of this investigation, OI also investigated under a separate investigative cover a potential threat allegation made against a federal employee tasked with assisting in the response to the mine water release. The USAO for the District of Arizona was consulted on this matter and declined prosecution, and the investigation was subsequently closed.

Possible criminal violations:

(b) (7)(A)

42 U.S.C. § 9603(a): Notification Requirements Respecting Released Substances



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REPORT OF INVESTIGATION CONCERNING

GOLD KING MINE INCIDENT (ANIMAS RIVER/ARIZONA ATTORNEY
GENERAL ALLEGATION)
OI-HQ-2015-CFR-0108

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Mike Flynn
Acting Deputy Administrator
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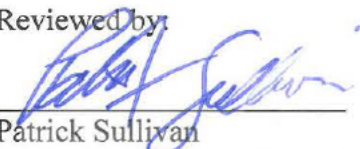
Submitted by:

[REDACTED]
Office of Investigations

Approved by:

[REDACTED]
Office of Investigations

Reviewed by:


Patrick Sullivan
Assistant Inspector General
Office of Investigations

OFFICE OF INSPECTOR GENERAL
OFFICE OF INVESTIGATIONS

CASE NO.: OI-HQ-2015-CFR-0108

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(ANIMAS RIVER/ARIZONA
ATTORNEY GENERAL
ALLEGATION)

CASE AGENT: [REDACTED]

CASE CATEGORY: Employee Integrity

OFFICE: San Francisco Field Office
Denver, Colorado

JOINT AGENCIES: None

JURISDICTION: District of
Colorado

SECTION A - NARRATIVE

Introduction

The United States Environmental Protection Agency (EPA) Office of Inspector General (OIG) Office of Investigations conducted an investigation related to the August 5, 2015 release of mine water at the Gold King Mine (GKM) in response to a September 18, 2015, letter to the OIG from Mark Brnovich, Attorney General (AG) for the state of Arizona. AG Brnovich requested the EPA OIG review the timeliness and methods of notification made to affected downstream stakeholders of the GKM following the release. (Exhibit 1)

Background

On August 4 - 5, 2015, representatives from the EPA and its contractors Environmental Restoration, LLC (Emergency and Rapid Response Services) and Weston Solutions, Inc. (Superfund Technical Assessment & Response Team [START]) were conducting an investigation of the GKM to assess the on-going water release from the mine, treat mine water and assess the feasibility of further mine remediation. On August 5, 2015, while excavating above the adit (an almost horizontal passage leading into a mine for the purposes of access or drainage) water began leaking, ultimately leading to the uncontrolled release of approximately three million gallons of mine water from behind the adit blockage into Cement Creek, a tributary of the Animas River.

Synopsis

The investigation did not support the allegation that the timeliness and method of notifications that the EPA made to affected governments, tribal authorities, water providers and communities downstream of the GKM post release on August 5, 2015, were not completed in an effective and efficient manner.

Possible violations:

42 U.S.C. § 9603(a): Notification Requirements Respecting Released Substances

Details

Allegation 1: In a September 18, 2015, letter to the OIG, AG Brnovich requested the EPA OIG to review the timeliness and methods of notification made to affected downstream stakeholders of the GKM following the release. AG Brnovich specifically noted how a failure to promptly notify affected personnel may be a violation of 42 U.S.C. § 9603(a).

Allegation 1 Findings: Not Supported.

The National Response Center (NRC) is the federal government's national communications center, and is staffed 24 hours a day by United States Coast Guard officers and marine science technicians. The NRC is the sole federal point of contact for reporting all hazardous substances releases and oil spills. The NRC receives all reports of releases involving hazardous substances and oil that trigger federal notification requirements under several laws. (Exhibit 2)

Reports to the NRC activate the National Contingency Plan and the federal government's response capabilities. It is the responsibility of the NRC staff to contact the pre-designated On-Scene Coordinator (OSC) assigned to the area of the incident and to collect available information as to the size and nature of the release, the facility involved, and the party(ies) responsible for the release. In the case of the GKM incident, the pre-designated OSC was the EPA OSC. The NRC maintains reports of all releases and spills in a national database.

The letter from the AG's office refers to NRC Notification #1125293, dated August 10, 2015, wherein an anonymous caller provided notification of the release from the GKM. However, a previous notification to the NRC had been made.

NRC Report #1124824, dated August 5, 2015, details that [REDACTED], [REDACTED], Colorado Division of Reclamation, Mining and Safety (DRMS), Colorado Department of Natural Resources (DNR), Denver, Colorado, made telephonic contact with the NRC at 12:27PM MST on August 5, 2015, regarding the GKM release. This contact was made subsequent to all personnel in the immediate path of the fast-flowing water being moved to safety and cell service being established as [REDACTED] traveled toward Silverton, Colorado. (Exhibit 3)

Within 10 - 12 minutes of the NRC receiving the notification, the following entities were notified by the NRC: the Center for Disease Control; the Department of Homeland Security; the Coast Guard Investigative Service; Colorado Office of Emergency Preparedness & Response, Colorado Department of Public Health & Environment (CDPHE); the Colorado Information Analysis Center; the United States Department of Transportation Crisis Management Center; EPA Region 8; the National Infrastructure Coordination Center; the National Oceanic and Atmospheric Administration; the Colorado Oil & Gas Conservation

Committee; the United States Department of the Interior's Office of Environmental Policy and Compliance; and the United States Coast Guard District 8.

██████████, ██████████, DRMS, DNR, Denver, Colorado, made telephonic contact with the CDPHE at 12:40PM MST on August 5, 2015, to inform CDPHE of the water release, as noted under CDPHE Case Number 2015-0492. Accordingly, CDPHE contacted the Colorado Water Quality Control Division, the Colorado Hazardous Materials and Waste Management Division, and the Colorado Parks and Wildlife. (Exhibit 4)

██████████, ██████████, Region 8, EPA, was interviewed. (Exhibit 5) ██████████ had no historical knowledge of the GKM prior to the August 5, 2015, release. Around 5:00PM MST on August 5, 2015, ██████████ was informed there had been a "blow out" at the GKM. ██████████ contacted EPA Region 8 Regional Administrator Shaun McGrath and information was shared regarding the mine water release and that nearby drinking water systems had been notified. ██████████ stated the management team relied on the people "on the ground" to have the procedures in place regarding dissemination of information to downstream stakeholders, in accordance with the Regional and Area Contingency Plans, for which the focus is on notification and potentially redundant notifications to the state, tribal and local jurisdictions located in the downstream jurisdiction. Later that same day, ██████████ and McGrath made telephonic contact with elected officials and federal agency heads in the areas likely to become the path of the mine water released from the GKM. Along with three Incident Commands representing EPA Regions 6, 8 and 9 that were already in place, an Area Command was established to facilitate coordinated efforts among the three Incident Commands.

██████████, ██████████, ██████████, ██████████, Region 8, EPA, was interviewed. (Exhibit 6) On August 5, 2015, ██████████ received a call from ██████████, ██████████, Region 8, EPA, and also received a report from the NRC and a notification from the CDPHE, all related to the GKM water release. ██████████ reviewed the NRC report and CDPHE notification, noting that the notification and report detailed notifications by both entities to downstream water users of the release.

██████████, ██████████, Region 8, EPA, was interviewed. (Exhibit 7) ██████████ had no historical knowledge or previous experience with the GKM before the release. On August 5, 2015, ██████████ was working in the Region 8 office and was notified of the release from a report DRMS had submitted. ██████████ stated the notifications of the GKM release were done in accordance with the National Response System. Tribes with NRC agreements in place received spill notifications based on provided jurisdictional information and selected incident criteria contained in their agreement application. ██████████ explained CDPHE notified downstream stakeholders. ██████████ related that ██████████ spoke with the ██████████ ██████████ for CDPHE, and ██████████ was told that on August 6, 2015, the tribes with water intakes along the river were notified of the release.

██████████, ██████████, ██████████ for the EPA's START contract, was interviewed. (Exhibit 8) On August 5, 2015, ██████████ was the ██████████ in the Region 8 ██████████. ██████████ received a notification from the NRC and the CDPHE

regarding the mine water release at the GKM. [REDACTED] could tell from reviewing the CDPHE notification that “downstream water intakes” had been notified. However, at the request of [REDACTED], [REDACTED] contacted the intakes again. [REDACTED] noted no problems, concerns or challenges with proper and timely notifications being made to downstream stakeholders following the mine water release from the GKM.

Disposition

This Report of Investigation is being issued to the acting EPA Deputy Administrator for informational purposes only.

SECTION B – PROSECUTIVE STATUS

On September 29, 2015, the facts and circumstances surrounding the letter from the Arizona AG were provided to Assistant United States Attorney Suneeta Hazra, United States Attorney’s Office, District of Colorado, Denver, Colorado, for prosecution consideration.

(b) (5)

[REDACTED] Therefore, her office declined prosecution in this matter.

EXHIBITS

<u>DESCRIPTION</u>	<u>EXHIBIT</u>
Letter from Arizona Attorney General, dated September 18, 2015.	1
Memorandum of Activity - Overview of NRC, dated August 24, 2015.	2
NRC Report #1124824, dated August 5, 2015.	3
CDPHE Report #2015-0492, dated August 5, 2015.	4
Memorandum of Interview of [REDACTED], dated September 3, 2015.	5
Memorandum of Interview of [REDACTED], dated August 21, 2015.	6
Memorandum of Interview of [REDACTED], dated August 27, 2015.	7
Memorandum of Interview of [REDACTED], dated August 27, 2015.	8